

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CMEG NYMEX INC.,

Plaintiff,

09 Civ. 3677 (GBD)

-against-

**OPTIONABLE, INC., KEVIN CASSIDY,
PIERPONT CAPITAL, INC., EDWARD
O'CONNOR, RIDGECREST CAPITAL, INC.,
and MARK NORDLICHT,**

Defendants.

**DECLARATION OF
MARTIN I. KAMINSKY
IN OPPOSITION TO
DEFENDANTS' MOTIONS
TO DISMISS AND STRIKE**

I, Martin I. Kaminsky hereby declare, under penalty of perjury:

1. I am a member of the Bar of this Court and of the firm of Pollack & Kaminsky, attorneys for plaintiff CMEG NYMEX, Inc. ["NYMEX"] in this action.
2. I respectfully submit this Declaration in support of NYMEX's opposition to defendants' motions to dismiss the Complaint and to strike certain allegations in it.
3. Attached hereto are the following Opposition Exhibits, which are referred to in the accompanying Memorandum in Opposition to the motions:
 - a. Exhibit A is the Indictment of Kevin Cassidy in United States of America v. Cassidy, SDNY Dkt. No. S1 09-Cr-1101, filed on November 13, 2008.
 - b. Exhibit B is a true and correct copy of the Complaint in SEC v. David Lee et al., SDNY Dkt. No. 08-Cv-9961 (GBD), filed on November 18, 2008.

c. Exhibit C is a true and correct copy of the Complaint in CFTC v. Cassidy, et al., SDNY Dkt. No. 08-Cv-09962 (GBD), filed on November 18, 2008.

d. Exhibit D is a true and correct copy of the Complaint in Bank of Montreal v. Optional, Inc., et al. SDNY Dkt. No. 09-Cv-7557 (GBD), filed on August 28, 2009.

e. Exhibit E is a true and correct copy of the Form 4 filed by defendant, Kevin Cassidy, filed with the SEC on April 4, 2007.

f. Exhibit F is a true and correct copy of the Stock and Warrant Purchase Agreement, dated April 10, 2007.


g. Exhibit G is a true and correct copy of the Consolidated Amended Complaint in In re Merrill Lynch Research Reports Securities Litigation, SDNY Dkt. No. 03-Cv-10221 (MP), filed on or about August 25, 2003.

h. Exhibit H is a true and correct copy of excerpts from the Form 10-K of Optionable, Inc., for 2005, filed with the SEC on March 15, 2006.

i. Exhibit I is a true and correct copy of excerpts from the Form 10-K of Optionable, Inc., for 2006, filed with the SEC on March 23, 2007.

j. Exhibit J is a true and correct copy of the Form 4 filed by defendant Mark Nordlicht with the SEC on January 29, 2007.

Dated: September 17, 2009
New York, New York


Martin I. Kaminsky